IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.8165 OF 2005

Tarabai Ramchandra Parandwal ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr.Nitin Bidkar for the Applicant
Ms S.D.Shinde, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : FEBRUARY 20,2006.

P.C.:

1. Heard learned Advocate for the Applicant and the learned A.P.P. for State. As the earlier Application for bail made by the Applicant was rejected by me by order dated 29th August 2005, this second bail Application for bail has been ordered to be placed before me.

2. The learned Advocate for the Applicant submitted that after the first bail Application of the Applicant was rejected by this Court, there is a change in the circumstances. The said change is that co-accused Pravin has been granted bail by this Court by order dated 30th January 2006 in Criminal Application No.140 of 2006. Inviting my attention to the various statements produced along with the charge sheet, he submitted that if the co-accused Pravin against whom very serious allegations have been made is enlarged on bail subsequent to the earlier order passed on the first bail Application of the Applicant, surely this brings about vital change in the circumstances requiring reconsideration of the

view taken by me earlier. He also pointed out that the Applicant is a woman who is stated to be 49 years old and from March 2005 the Applicant is in custody and trial has not proceeded. The learned A.P.P. invited my attention to the order dated 6th December 2005 passed in Criminal Application No.7348 of 2005 by which the Application for bail made by the co-accused Bhagwan has been rejected on merits by this Court. The learned A.P.P. submitted that there is no change in the circumstances warranting interference with earlier order.

3. I have considered the submissions. Going by the prosecution case, other two co-accused have played a major role in offence under Section 302 of the Indian Penal Code. According to the prosecution case, the role played by the Applicant is that after the victim was dead, she removed ornaments and articles on the dead body. Subsequent to the order of rejection passed by this Court, Pravin who has allegedly played a role in killing the victim has been enlarged on bail by this Court. The other important factor which is needed to be considered is that the Applicant is 49 years old woman and even after rejection of bail Application in August 2005, the trial has not commenced.

4. The aforesaid factors are surely subsequent events requiring consideration of the second bail Application on merits. The facts disclose that the Applicant was arrested on 18th March 2005 and her application for bail has been rejected on 29th August 2005. Thereafter, till today no progress has

been made in the trial. The Applicant who is a woman continues to languish in jail as an undertrial prisoner practically for the last one year. If the trial could not make any progress after 29th August 2005 till today, this is surely a factor which will have to be considered as it brings about a change in the circumstances. As pointed out earlier, the co-accused who has played the major role in the offence is ordered to be enlarged on bail. Reliance was placed by the learned A.P.P. on the order passed in the bail Application of another co-accused Bhagwan and submitted that the Applicant has no case. The material produced along with charge sheet shows that the other co-accused Pravin seems to have acted on the suggestion of the said co-accused Bhagwan and at his instance co-accused Pravin brought a rope and he assisted Bhagwan in hanging the victim to death. The role played by Bhagwan appears to be different from the role played by Pravin. If co-accusd Pravin is enlarged on bail, the Applicant against whom the allegation is only of removing the ornaments from the dead body deserves to be enlarged on bail. There are criminal antecedents of the Applicant. Hence, the learned A.P.P. cannot oppose the bail Application by relying upon the order passed in case of co-accused Bhagwan. Hence a case is made out for enlarging the Applicant on bail subject to stringent conditions.

5. Hence, I pass the following order :

i) The Applicant shall be enlarged on bail in connection with

C.R.No.33 of 2005 registered at Dehu Road Police Station, Pune subject to furnishing a personal bond of Rs.15,000/- (Rupees fifteen thousand only) with one or two sureties in the like amount.

ii) The bail is granted subject to the condition that the Applicant will attend the concerned Police Station once in fortnight till the conclusion of the trial.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE